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FEDERAL COMMUNICATIONS COMMISSION
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EX PARTE

Ms. Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, D.C. 20554

**Re: ET Docket No. 00-258,
Allocation of Spectrum for Advanced Wireless Services**

Dear Ms. Salas:

The Catholic Television Network ("CTN") submits these *ex parte* comments in response to the "Supplemental Comments of Verizon Wireless" filed with the Commission on April 16, 2001. Among other things, Verizon criticized the FCC Final Report¹ in the above-referenced proceeding as being "flawed" for making incorrect assumptions about the potential for band segmentation. Verizon's argument rests on the premise that a significant portion of the ITFS spectrum is no longer used to provide instructional services, that the band has been largely commercialized and, therefore, reallocation of ITFS spectrum for 3G services will have no adverse impact on educational institutions. This latest attack demonstrates both a clear disregard for the evidence and a blatant mischaracterization of the leasing arrangements between ITFS and MDS licensees.

The record before the Commission in this proceeding demonstrates that the 2.5 GHz band is used extensively for educational purposes. CTN and other ITFS licensees have documented the use of the 2.5 GHz band for educational purposes. CTN members alone provide extensive programming to over 600,000 students from multi-ethnic backgrounds in both public and private schools and 4,000,000 households throughout the country.² The National ITFS Association, the Education Community of the United States, the American Federation of Teachers, and the Council of the Great City Schools, to name a few, have also provided documentation of the

¹ *Staff Final Report on Spectrum Study of 2500-2690 MHz Band*, ET Docket No. 00-258, DA-01-786 (March 30, 2001) ("FCC Final Report").

² Comments of the Catholic Television Network at pp. 3-14 (filed February 22, 2001) and attached Appendix ("CTN Comments").

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extensive use of ITFS frequencies for educational purposes.³ More recently, the Governor of the State of Florida filed comments stating that, “Our ITFS allocations are among the best utilized in the country and reach every facet of our population.”⁴ Accordingly, the Commission staff had good reason to conclude in its Final Report that “ITFS licensees make *extensive use* of the spectrum to provide formal classroom instruction, distance learning, and videoconference capability to a wide variety of educational users throughout the nation.”⁵ The FCC Final Report is not “flawed” simply because it fails to agree with Verizon’s unfounded argument that educators no longer use ITFS spectrum.

Verizon’s claim that reallocation of up to 60 MHz of ITFS spectrum for 3G “would not harm incumbent licensees”⁶ ignores the reality that the Commission deliberately and carefully developed a flexible operational and technical framework in which ITFS and MDS licensees can divide, combine or swap their channels and modify existing band plans to achieve the most efficient use of the spectrum. Pursuant to this flexible framework, ITFS and MDS licensees now offer a wide-range of analog and digital one-way and two-way services that vary from one geographic area to another. Different operators use different band plans depending on the needs of their markets and the channels they have available to them. Given the interdependent and interleaved nature of ITFS and MDS operations, it is simply ludicrous to argue that the Commission could reallocate the same 60 MHz of spectrum in every market with no adverse impact to incumbent licensees.⁷

Verizon’s Supplemental Comments are simply another attempt to distract the Commission’s attention from Verizon’s true intention: to derail the deployment of a service that will directly compete with Verizon’s own DSL service. ITFS spectrum is not lying fallow, and the Final Report is not flawed simply because the staff did not come up with a “magic number” that accounts for every single megahertz utilized by ITFS licensees to deliver educational services. As the Commission reiterated less than a month ago when it denied Verizon’s petition

³ See The National ITFS Association Comments at 7-16 and attached appendix; the American Federation of Teachers Comments at 2; the K-12 Community Comments at 11-14; the American Association of School Administrators Comments at 1-3; the Network for Instructional Television Comments at 5-11; the Education Community of the United States Comments at 8-10; Joint Comments of ITFS Parties at 4-6 and attached appendix; Joint Parties Comments filed by Schwartz, Woods and Miller at 4-19; Council of the Great City Schools Comments at 2-4; the University of Colorado Comments at 2-5.

⁴ Comments of the Governor and the Commissioner of Education of the State of Florida at 1-2 (filed April 16, 2001) (“Our ITFS allocations are among the best utilized in the country and reach every facet of our population . . . [w]e submit that licensees, both in Florida and in other states, are upgrading to digital operations and adding high-speed Internet access through their spectrum allocations as quickly as funding allows”).

⁵ FCC Final Report at p. 13 (emphasis added).

⁶ Verizon’s Supplemental Comments at 8.

⁷ See CTN’s Comments at 21-23 (explaining how it is not feasible to segment the 2.5 MHz band to accommodate 3G services without seriously compromising the educational services provided by ITFS licensees).

to suspend the processing of pending ITFS/MDS applications for two-way authority, a delay in the introduction of new competition and services is simply contrary to the public interest.⁸

CTN applauds the FCC staff for the thorough and comprehensive findings in its Final Report and urges the Commission to act quickly to eliminate the 2.5 GHz band from further consideration as a candidate band for 3G services.

Please include a copy of this *ex parte* presentation in the record for the above-captioned proceeding. In accordance with Section 1.1206 of the Commission's rules, an original and a copy of this letter are being filed with the Secretary's office.

Respectfully submitted,

THE CATHOLIC TELEVISION NETWORK



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⁸ Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Service to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems, ET Docket No. 00-258, *Memorandum Opinion and Order*, DA 01-842, ¶ 8 (Mass Media Bureau, April 4, 2001).